

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (#FZC-20-01)
RRN HOLDINGS, LLC
FEBRUARY 25, 2020**

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by RRN Holdings, LLC for a zoning map amendment within the Evergreen Zoning District. The proposed amendment would change the zoning of the subject property from *R-1 (Suburban Residential)* to *R-3 (One Family Residential)*.

B. Application Personnel

1. Owner/Applicant

Rob Nesten
RRN Holdings, LLC
10279 W Calico Street
Boise, ID 83709

2. Technical Assistance

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on March 11, 2020 at 6:00 P.M. in the 2nd Floor Conference Room of South Campus Building located at 40 11th Street West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

2. Commission

The Commissioners will hold a public hearing on the proposed zoning map amendment on April 9, 2020. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

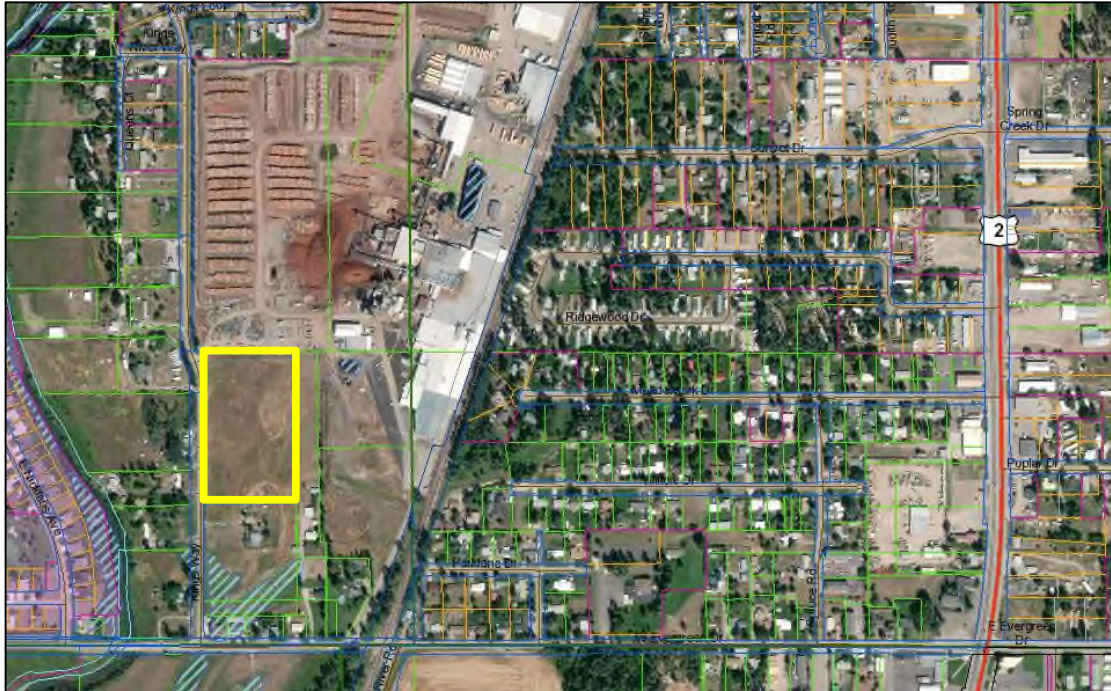
II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The property located approximately an eighth of a mile north of West Evergreen Drive, along Kings Way in Kalispell, MT (see Figure 1 below) and is 6.47 acres in size. The property is legally described as:

Parcel A of Certificate of Survey No. 20810, located in the Southeast Quarter of the Southeast Quarter of Section 32, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

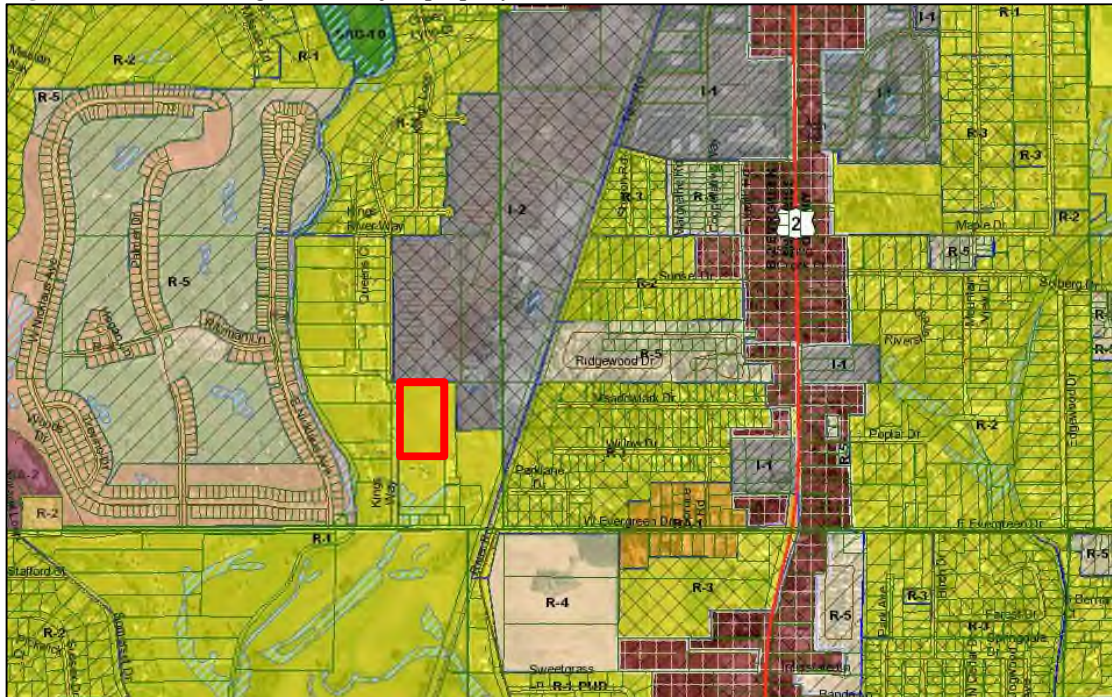
Figure 1: Subject property (outlined in yellow)



B. General Character of and Reason for Amendment

The subject property is located at an eighth of a mile north of West Evergreen Drive and is currently vacant. According to the application the reason for the proposed zone change is because the, “The property is located on vacant property that is bordered by single family to the south and west and heavy industrial uses to the North and East. The R-1 with one acre lots reflects the original 1980’s Evergreen zoning map which predated public water/sewer and the expansion of Kalispell.”

Figure 2: Current zoning on the subject property (outlined in red)

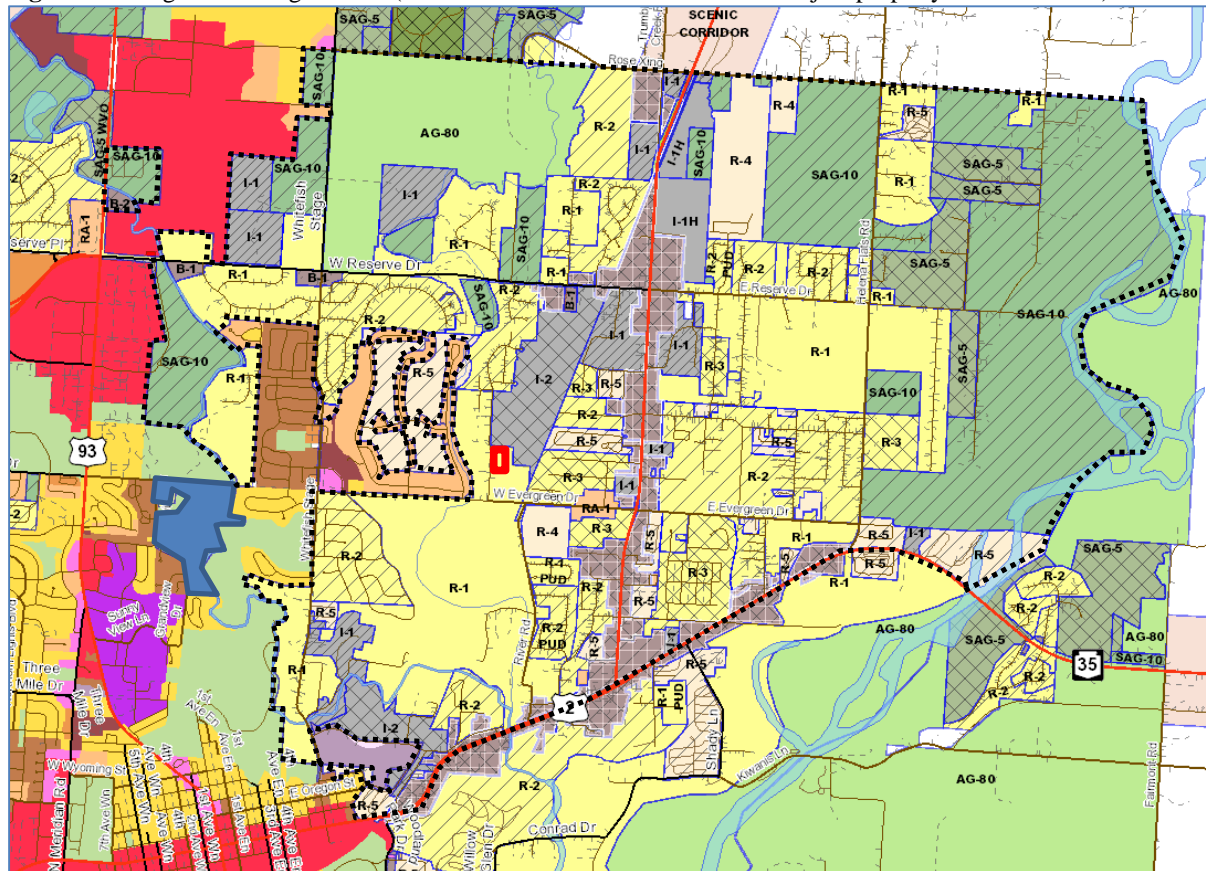


C. Adjacent Zoning and Character of the Overall Zoning District

The property is located in the Evergreen Zoning District. Immediately to the south, east and west of the property is R-1 zoning and to the north is I-2. Approximately a tenth of a mile to the west is City of Kalispell R-4 zoning. Also in the general vicinity of the property is County R-1, R-2, R-3, R-4, R-5 and RA-1 zoning.

The character of the zoning district in the vicinity of the subject property is residential, agricultural, commercial and industrial. The property is located adjacent to a lumber mill and larger estate-type residential lots. To the west of the property across Whitefish River is the Village Greens Golf Course and the property is located a half mile from Evergreen Junior High School.

Figure 3: Evergreen Zoning District (outlined with dashed black line and subject property outlined in red)



D. Public Services and Facilities

Sewer:	Evergreen Water & Sewer District
Water:	Evergreen Water & Sewer District
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Evergreen School District, Glacier High School District
Fire:	Evergreen Fire District
Police:	Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on January 16, 2020:
 - Bonneville Power Administration (BPA)
 - City of Kalispell Planning Department
 - DNRC
 - Evergreen Elementary School District
 - Evergreen Fire District
 - Evergreen Water & Sewer District
 - Flathead City-County Health Department

- Flathead County Sheriff's Office
 - Flathead County Solid Waste District
 - Flathead County Superintendent of Schools
 - Flathead County Weeds & Parks Department
 - Glacier High School District
 - Montana Fish, Wildlife & Parks
 - Public Works/Flathead County Road Department
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
- Flathead City-County Health Department
 - Comment: "No comment is offered for the zone change request." Letter received January 22, 2020
 - Flathead County Road & Bridge Department
 - Comment: "At this point the County Road Department does not have any comments on this request." Letter received January 27, 2020
 - Flathead County Solid Waste District
 - Comment: "The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Evergreen Disposal is the licensed (PSC) Public Service Commission licensed hauler in this area." Letter received January 28, 2020
 - Bonneville Power Administration (BPA)
 - Comment: "At this time, BPA does not object to this request, as the property is located 1.25 miles away from the nearest BPA transmission lines or structures." Email received January 29, 2020

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on February 21, 2020. Legal notice of the Planning Board public hearing on this application was published in the February 23, 2020 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment was physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A] on February 21, 2020. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for March 11, 2020 and/or the Commissioner's Public Hearing. Any written comments received following the

completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

Per Section 3.09 of the Flathead County Zoning Regulations (FCZR), R-1 Suburban Residential is defined as, *'A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).'*

Per Section 3.12 FCZR, R-3 One Family Residential is defined as, *'A district to provide adequate lot size for urban residential development; should have good thoroughfare access, and be in proximity to community and neighborhood facilities, i.e., schools, parks, shopping areas. This district will normally require all public utilities.'*

The permitted uses and conditional uses for the existing and the proposed zoning are fairly similar with the main difference being R-1 allows for a few rural uses and R-3 allows for a few urban uses. The amendment would decrease the number of permitted uses from 15 to 8 and the number of conditional uses from 23 to 17. There are several permitted uses within R-1 that are not allowed in R-3:

- Agricultural/horticultural/silvicultural use
- Guest house
- Livestock
- Nursery, landscaping material
- Produce stand
- Stable, private

The conditional uses within R-1 that are not allowed in R-3 are:

- Airfield
- Aircraft hangars
- Camp and retreat center

- Caretaker's facility
- Cemetery, mausoleum, columbarium, crematorium
- Radio and television broadcast station
- Stable, public
- Water and sewage treatment plant

The permitted uses within R-1 that are listed as conditional uses in R-3 are:

- Dwelling unit, accessory

The conditional uses within R-3 that are not allowed in R-1 are:

- Day care center

The bulk and dimensional requirements within the current and proposed zoning requires a 20 foot setback from front, side corner and rear for principal structures. The side setback for a principal structure in R-1 is 20 feet and in R-3 is 10 feet. The setbacks for detached accessory structures is the same in both zones with a front and side corner setback of 20 feet and a side and rear setback of 5 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 feet is required from county collectors and arterial roads for both zones. The maximum height for a principal structure is 35 feet in both zones. The R-1 zone allows for a detached accessory structure maximum height of 35 feet, if it meets principal structure setbacks, otherwise the maximum height for an accessory structure is 18 feet. The maximum height for a detached accessory structure in R-3 is 15 feet. The permitted lot coverage is 40% for R-1 and 30% for R-3.

The existing R-1 zoning requires a minimum lot area of 1 acre and the proposed R-3 zoning allows for a minimum lot area of 10,000 square feet. The subject property totals 6.47 acres therefore 5 additional lots could be created under the existing zoning. The proposed R-3 zoning allows for a minimum lot area of 10,000 square feet, therefore approximately 27 additional lots could be created under the proposed zoning. The requested zone change has the potential to increase density through subsequent subdivision in the future. The bulk and dimensional requirements are similar but the amendment would reduce the number of permitted and conditional uses and would allow for one conditional use that is not currently allowed.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). The property is located within the Kalispell City-County Master Plan 2010, adopted on February 6, 1986 by the Flathead County Commissioners (Resolution #578A).

The Kalispell City-County Master Plan (Master Plan) serves as a planning tool for the area surrounding the City of Kalispell. The Master Plan was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at the local level. The Master Plan is composed of three

major components, the text, the map and the goals and objectives. According to the Master Plan, *“Relying on only one component will not always give a clear picture of the broad community concepts or the spirit of the Plan.”* This report contains discussion on compliance with all three components of the Master Plan.

The Kalispell City-County Master Plan Year 2010 currently designates the land use of the subject property as ‘Suburban Residential’ and ‘Open Space’. The ‘Suburban Residential’ designation states, *“A residential district which provides for two or less units per acre. Such areas typically do not have access to a community sewer or water system, have only limited police and fire protection, and may have a limited carrying capacity due to site or soil limitations, floodplain or other natural constraints which preclude higher density. [...]*

As community sewer and water systems are extended into suburban residential areas and as other community services become available, i.e., access to improved police and fire protection, schools, garbage collection, etc. these areas should be routinely reviewed and, where appropriate, redesignated to a higher, more appropriate residential district.”

The proposal would be compatible with the ‘Urban Residential’ land use designation which states, *“A residential district which provides a gross density of two-eight units per acre. Such areas should be served by a community water and sewer system and have all other customary urban services including fire and police protection, garbage disposal and access to schools, parks and open spaces and the major street system. Developments would include single family and duplex housing, manufactured housing on individual lots and attached housing under a planned unit development concept where adequate open space is provided to compensate for the increased density.”*

Since the time of the designation the area is now served by public sewer and water, is served by the Evergreen Fire District and the subject property does not contain floodplain. The property is located on Kings Way, just north of West Evergreen Drive, which is classified as a local County road. Any new development would be able to have a contract hauler for solid waste disposal and the property is located within a half mile of Evergreen Junior High School.

The following goals and objectives of the Master Plan appear applicable to the proposed map amendment, and generally indicate consistency with the proposal:

- ❖ **Goal 4: Housing** – *A housing supply within the planning jurisdiction that meets the needs of present and future residents in terms of supply, choice and location.*
 - **Objective 4.d** – *Provide areas and institute appropriate site design for mobile home and manufactured home parks.*
 - **Objective 4.f** – *Coordinate the designation and development of higher density neighborhoods with adequate parklands and adjacent open space.*
 - The proposed zoning would allow for manufactured home parks and higher density single-family residential development. The property is located near a school which provides approximately 14.5 acres of open space and Kings Loop Park which is approximately 5 acres.

- ❖ **Goal 6: Land Use** – *The orderly development of the planning jurisdiction with ample space for future growth while, at the same time, ensuring compatibility of adjacent land uses.*
 - **Objective 6.f** – *Establish standards for buffering incompatible land uses and for mitigating impacts caused by such arrangements.*
 - **Objective 6.g** – *Maintain the character of the single-family neighborhoods.*
 - **Objective 6.h** – *Concentrate medium and high density residential units in areas close to commercial services, good traffic access and open space specifically to provide efficient access to these amenities for the occupants and to provide a suitable buffer between commercial and high traffic areas and low density residential.*
 - The property is located just north of West Evergreen Drive and approximately a half mile from the businesses located on Highway 2. The proposed zone could act as a buffer between heavy industrial use and suburban residential use.
- ❖ **Goal 8: Public Facilities** – *An economical, balanced distribution of public facilities and services throughout the planning jurisdiction for present and anticipated future residents.*
 - **Objective 8.a** – *Designate areas of future development which are already serviced or are in areas which can be economically serviced by water and sewer systems, police and fire protection, etc.*
 - This report contains discussion on the adequacy of emergency service and public facilities below.

Finding #1: The proposed zoning map amendment does not appear to comply with the Kalispell City-County Master Plan map which designates the subject property as ‘Suburban Residential’, however the proposed map amendment would generally support the goals and objectives outlined in the text of the document because the subject property is in an area served by public water and sewer, is located within 700 feet of a county collector road, and is located in close proximity to a school and park.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The property is located within the Evergreen Fire District and the nearest fire station is located approximately one mile west along Highway 2. The property is not located within the Wildland Urban Interface (WUI) or a countywide priority area or fire district priority area.

The property is located on Kings Way north of West Evergreen Drive. Kings Way is a paved two lane local county road within a 60 foot wide easement and West Evergreen Drive is a paved two lane county collector road. Both roads would appear to adequately provide ingress and egress in the event of an emergency.

FEMA FIRM Panel 30029C1810J shows the property as located within an unshaded zone X. The unshaded Zone X is an area determined to be outside the 0.2% annual chance floodplain.

Finding #2: The proposed zoning map amendment would not negatively impact safety from fire and other danger because the subject property is located approximately one mile from the nearest fire station, is not within the WUI, and does not contain floodplain.

b. Promote public health, public safety, and general welfare;

As previously stated, the property is located within the Evergreen Fire District and the nearest fire station is located approximately one mile west along Highway 2. The Evergreen Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff's Department provides police services to the subject property.

Emergency service providers can anticipate likely emergencies based on similar existing and proposed uses. The proposed zoning classification would allow for similar uses to what already exists in the area, therefore the zone change is not anticipated to adversely impact public health, safety or general welfare.

Finding #3: The proposed zoning map amendment would not have a negative impact on public health, public safety and general welfare because the property is served by the Evergreen Fire Department and the Flathead County Sheriff.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

The property is located on Kings Way north of West Evergreen Drive. Kings Way is a paved two lane local county road within a 60 foot wide easement and West Evergreen Drive is a paved two lane county collector road. Comments from the Flathead County Road and Bridge indicate no concerns with the proposal. Old traffic counts from 1999 for West Evergreen Drive indicate an Average Daily Traffic (ADT) of 3,244 at the railroad crossing. Recent traffic studies for subdivisions in the area indicate an ADT of 3,142. No traffic counts are available for Kings Way but there are approximately 70 dwellings that are accessed by Kings Way. Standard trip generation rates for a single family dwelling is 9.52 ADT. Based on this information Kings Way would have approximately 666 ADT.

The subject property is 6.47 acres in size and currently undeveloped. The proposed zoning allows for a minimum lot area of 10,000 square feet, therefore 27 additional lots could be created under the proposed zoning, which would generate an increase of approximately 257 ADT. With full build out, the proposal has the potential to increase traffic on Kings Way by approximately 39% and on West Evergreen Drive by 8%. Future subdivision of the property would require further review and traffic concerns could be further addressed at that time.

The property is located within the Evergreen Water and Sewer District and will be served by the district.

The proposal is located in the Evergreen Elementary School District and Glacier High School District. According to the 2017 Census Data there are 48,741 housing units in the Flathead County. The Flathead County Statistical Report of Schools 2019 states there are 16,422 students enrolled in public, private and home schools. The total students (16,422) divided by the total households (48,741) equals

approximately 0.34 students per household. Therefore, 27 single-family dwellings could generate approximately 9 school age children.

The Evergreen Elementary School District has seen a decrease of 8% in the last ten years. The Kalispell Public High School District has seen a 5% increase in the last ten years but a 1% decrease in student population between 2018 and 2019 fall enrollment. No comments were received from the school districts regarding this proposal.

The property is located south of an existing county park, which is at the north end of Kings Way. Any future subdivision would likely require parkland dedication or cash-in-lieu.

Finding #4: The proposed zoning map amendment would facilitate the adequate provision of transportation because it has the potential to increase traffic by 39% on Kings Way and by 8% on West Evergreen Drive, future development would require subdivision review and impacts could be mitigated, and the Flathead County Road and Bridge Department had no concerns with the proposal.

Finding #5: The proposed zoning map amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because the property will be served the Evergreen Water and Sewer District, the property is located near an existing county park, the proposal has the potential to generate approximately 9 school age children, and no comments were received from either school district.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

Any additional lots created or structures constructed would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot area requirements of the R-3 zoning classification.

As discussed in the build-out analysis, the bulk and dimensional requirements within the current and proposed zoning requires a 20 foot setback from front, side corner and rear for principal structures. The side setback for a principal structure in R-1 is 20 feet and in R-3 is 10 feet. The setbacks for detached accessory structures is the same in both zones with a front and side corner setback of 20 feet and a side and rear setback of 5 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 feet is required from county collectors and arterial roads for both zones.

The maximum height for a principal structure is 35 feet in both zones. The R-1 zone allows for a detached accessory structure maximum height of 35 feet, if it meets principal structure setbacks, otherwise the maximum height for an accessory structure is 18 feet. The maximum height for a detached accessory structure in R-3 is 15 feet. The permitted lot coverage is 40% for R-1 and 30% for R-3. The minimum lot size is 1 acre for R-1 and 10,000 square feet for R-3.

The bulk and dimensional requirements for the current and proposed zone differ slightly however, the requirements have been established to provide for a reasonable provision of light and air.

Finding #6: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements of the R-3 zoning designation.

b. The effect on motorized and non-motorized transportation systems;

The property is located on Kings Way north of West Evergreen Drive. Kings Way is a paved two lane local county road within a 60 foot wide easement and West Evergreen Drive is a paved two lane county collector road. Comments from the Flathead County Road and Bridge indicate no concerns with the proposal. Old traffic counts from 1999 for West Evergreen Drive indicate an Average Daily Traffic (ADT) of 3,244 at the railroad crossing. Recent traffic studies for subdivisions in the area indicate an ADT of 3,142. No traffic counts are available for Kings Way but there are approximately 70 dwellings that are accessed by Kings Way. Standard trip generation rates for a single family dwelling is 9.52 ADT. Based on this information Kings Way would have approximately 666 ADT.

The subject property is 6.47 acres in size and currently undeveloped. The proposed zoning allows for a minimum lot area of 10,000 square feet, therefore 27 additional lots could be created under the proposed zoning, which would generate an increase of approximately 257 ADT. With full build out, the proposal has the potential to increase traffic on Kings Way by approximately 39% and on West Evergreen Drive by 8%. Future subdivision of the property would require further review and traffic concerns could be further addressed at that time.

The Flathead County Trails Plan identifies Evergreen Drive as a proposed connector trail and Kings Way is not identified as a proposed trail. Since the subject property is located a half mile from Evergreen Middle School, future development of the property would likely generate school age children who would walk to school. Evergreen Drive is a two-lane road with no shoulder which does not accommodate pedestrian traffic. Given the close proximity to the school, if a pedestrian and bicycle path is not constructed along West Evergreen Drive between the Kings Way and the school, pedestrian traffic could be impacted.

Finding #7: The proposed zoning map amendment would have minimal effects on motorized transportation systems because it has the potential to increase traffic by 39% on Kings Way and by 8% on West Evergreen Drive, future development would require subdivision review and impacts could be mitigated, and the Flathead County Road and Bridge Department had no concerns with the proposal.

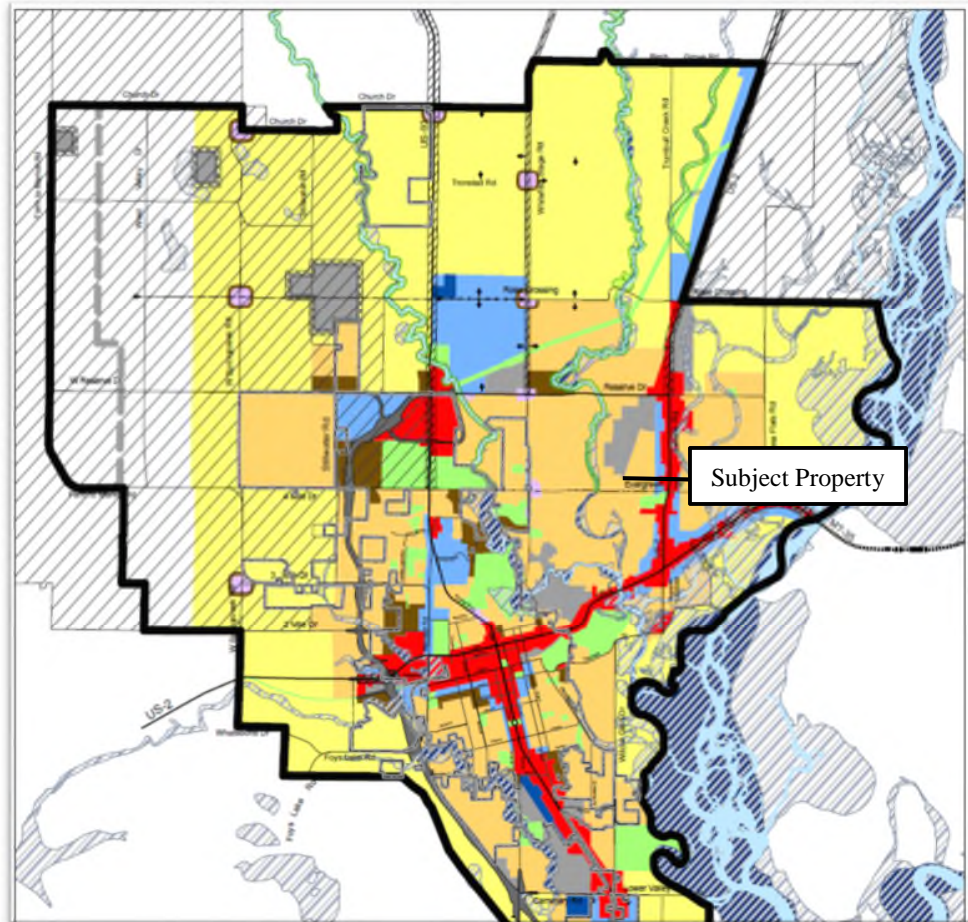
Finding #8: The proposed zoning map amendment has the potential to impact the non-motorized transportation systems because future development is likely to generate school age children who would walk to school on West Evergreen Drive which is a two-lane road with no existing shoulders or pedestrian paths.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

Kalispell is the nearest municipality to the subject property and the city limits are located less than a tenth of a mile to the west. An agency referral was sent to the

City of Kalispell Planning Department but staff has not received any comments from the City as of the date of this report.

Figure 4: City of Kalispell Growth Policy Future Land Use Map



The subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The Kalispell Growth Policy Planning Area Map designated a majority of the property as ‘Urban Residential.’ ‘Urban Residential’ states, ‘Typical densities are four to twelve dwellings per gross acre. Single-family houses are the primary housing type, but duplexes, guest houses, accessory apartments, and small dispersed areas of multi-family housing are also anticipated. Urban and high density residential areas should be fully served by urban infrastructure and municipal services, including paved streets, curbs, sidewalks, landscaped boulevards and public sewer and water.’

The R-3 zoning would likely require public utilities upon build-out. The proposed zoning designation would allow for a density of up to 4 dwelling units per acre and would therefore be compatible with urban growth of the City of Kalispell.

Finding #9: Consideration has been given to the proposal’s compatibility with the City of Kalispell growth and the proposal appears compatible because the R-3 zone

would require public utilities and the density would be up to 4 dwelling units per acre, which is in-line with the Kalispell Growth Policy 'Urban Residential' designation.

d. The character of the district(s) and its peculiar suitability for particular uses;

The character of the district and its peculiar suitability for particular uses can best be addressed using the "three part test" established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

The character of the zoning district in the vicinity of the subject property is residential, agricultural, commercial and industrial. The property is located adjacent to a lumber mill and larger estate-type residential lots. Also in the general vicinity of the property is a mixture of suburban and urban residential zones including County R-1, R-2, R-3, R-4, R-5, RA-1 zoning, and City of Kalispell R-4 zoning. The proposed R-3 zoning would allow for similar but fewer uses than the surrounding R-1 zoning, and would allow the same uses as properties approximately a tenth of a mile to the east which are zoned R-3.

ii. *The zoning applies to a small area or benefits a small number of separate landowners.*

The zoning map amendment would apply to one tract for the benefit of one owner. Immediately to the south, east and west of the property is R-1 zoning and to the north is I-2. Also in the general vicinity of the property is City of Kalispell R-4 zoning and County R-1, R-2, R-3, R-4, R-5 and RA-1 zoning.

Using standard ArcGIS software staff determined that the subject property is located within an approximate 490 acre R-1 district. To the west is a 121 acre City of Kalispell R-4 and a 126 acre County R-5. The zones to the north are a 126 acre I-2 and a 67 acre R-2. To the east is a 31 acre R-4, a 56 acre R-3, a 24 acre R-5, a 23 acre R-2, and a 17 acre RA-1 zone. Additionally, there is a 10.5 acre R-3 zone to the northeast. The proposed zone change would be approximately four acres less than the smallest neighboring zone.

iii. *The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.*

The subject property is currently owned by a single landowner. However, as previously stated, the property is surrounded by a range of residential zones.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #10: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because there is a wide range of residential zones in the vicinity and the proposed zoning would not allow uses that differ significantly from the prevailing use in the area.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

The character of the zoning district in the vicinity is residential, industrial, commercial and agricultural. As stated above, the property is located adjacent to a lumber mill and larger estate-type residential lots. Immediately to the south, east and west of the property is R-1 zoning and to the north is I-2. Also in the general vicinity of the property is a mixture of suburban and urban residential zones including County R-1, R-2, R-3, R-4, R-5, RA-1 zoning, and City of Kalispell R-4 zoning. As mentioned previously, the subject property is located within the Evergreen Water and Sewer District and in close proximity to a park and a school.

Finding #11: The proposed zoning map amendment would conserve the value of buildings and encourage the most appropriate use of land in this particular location because the amendment would allow for a higher density of single-family dwellings served by public facilities, in close proximity to a school and a park, and the property is located near a variety of residential zones.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The location of the proposed zoning map amendment is not directly adjacent to any city but it is located within a tenth of a mile of the City of Kalispell. As previously stated, the subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003.

The nearest City of Kalispell zoning (R-4) is located approximately one tenth of a mile to the west of the subject property. The City of Kalispell states the intent of the '*R-4 Residential*' as, '*This district is comprised of primarily single-family and duplex dwellings. Development within the district will require all public utilities, and all community facilities. This zoning district would typically be found in areas designated as urban residential on the Kalispell Growth Policy Future Land Use Map.*' The City R-4 zoning has a smaller minimum lot size (6,000 square feet) than County R-3 zoning (10,000 square feet). The permitted and conditional uses are similar with the exception of duplexes and townhouses, which are permitted in City R-4 but are not allowed in County R-3.

Finding #12: The proposed zoning map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed zone is similar to the neighboring City R-4 zone in terms of permitted and conditional uses, and no comments were received from the City of Kalispell.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment does not appear to comply with the Kalispell City-County Master Plan map which designates the subject property as 'Suburban Residential',

however the proposed map amendment would generally support the goals and objectives outlined in the text of the document because the subject property is in an area served by public water and sewer, is located within 700 feet of a county collector road, and is located in close proximity to a school and park.

2. The proposed zoning map amendment would not negatively impact safety from fire and other danger because the subject property is located approximately one mile from the nearest fire station, is not within the WUI, and does not contain floodplain.
3. The proposed zoning map amendment would not have a negative impact on public health, public safety and general welfare because the property is served by the Evergreen Fire Department and the Flathead County Sheriff.
4. The proposed zoning map amendment would facilitate the adequate provision of transportation because it has the potential to increase traffic by 39% on Kings Way and by 8% on West Evergreen Drive, future development would require subdivision review and impacts could be mitigated, and the Flathead County Road and Bridge Department had no concerns with the proposal.
5. The proposed zoning map amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because the property will be served the Evergreen Water and Sewer District, the property is located near an existing county park, the proposal has the potential to generate approximately 9 school age children, and no comments were received from either school district.
6. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional, setbacks and lot coverage requirements of the R-3 zoning designation.
7. The proposed zoning map amendment would have minimal effects on motorized transportation systems because it has the potential to increase traffic by 39% on Kings Way and by 8% on West Evergreen Drive, future development would require subdivision review and impacts could be mitigated, and the Flathead County Road and Bridge Department had no concerns with the proposal.
8. The proposed zoning map amendment has the potential to impact the non-motorized transportation systems because future development is likely to generate school age children who would walk to school on West Evergreen Drive which is a two-lane road with no existing shoulders or pedestrian paths.
9. Consideration has been given to the proposal's compatibility with the City of Kalispell growth and the proposal appears compatible because the R-3 zone would require public utilities and the density would be up to 4 dwelling units per acre, which is in-line with the Kalispell Growth Policy '*Urban Residential*' designation.
10. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because there is a wide range of residential zones in the vicinity and the proposed zoning would not allow uses that differ significantly from the prevailing use in the area.
11. The proposed zoning map amendment would conserve the value of buildings and encourage the most appropriate use of land in this particular location because the

amendment would allow for a higher density of single-family dwellings served by public facilities, in close proximity to a school and a park, and the property is located near a variety of residential zones.

12. The proposed zoning map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed zone is similar to the neighboring City R-4 zone in terms of permitted and conditional uses, and no comments were received from the City of Kalispell.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EA